

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF MISSISSIPPI

IN RE:  
CHIQUELLA LUCAS

CASE NO. 20-12294-JDW

CHAPTER 13

Debtor.

CREDITOR'S RESPONSE TO TRUSTEE'S OBJECTION TO NOTICE OF PAYMENT CHANGE AND AMENDED  
NOTICE OF PAYMENT CHANGE  
(dkt 36)

COMES NOW, U.S. Bank Trust National Association, not in its individual capacity, but solely as Trustee of LSRMF Master Participation Trust II by Fay Servicing, LLC, its servicer (hereinafter "Creditor"), and files this Creditor's Response to Trustee's Objection to Notice of Payment Change (docket #32) and Amended Notice of Payment Change, (Docket #36) and would show the Court the following in support thereof.

Creditor filed a payment change notice on August 1, 2023, docket number 32, and an amended payment change notice on September 12, 2023, docket number 35. Docket number 32 provided for a new total payment of \$1,099.09 beginning on September 1, 2023, which consisted of \$265.12 due to an escrow change and a principal and interest payment of \$833.97. Amended payment change notice filed on September 12, 2023, (docket 35) was in the amount of \$1,099.09, which consisted of an increase of the interest rate to 14.375% in the amount of \$833.97 for the principal and interest payment and \$265.12 for the escrow payment. This causes the total payment to be \$1,099.09 beginning with the September 1, 2023 payment. Creditor realized the increase in the interest rate was not notice properly, which caused it to file the amended payment change notice. The amended payment change notice provided a disclaimer that stated, "To the extent any prior interest rate adjustments under the terms of the loan documents or prior escrow adjustments were not noticed in this Court pursuant to Bankruptcy Rule 3002.1 after December 1, 2011, or the Petition Date (whichever is later), Fay Servicing will refund

or credit the debtor, as appropriate, to give the debtor the benefit of any lower payment amount as provided under the loan documents, escrow analysis, or notice previously filed with this Court pursuant to Bankruptcy Rule 3002.1. This does not constitute a modification of the payment obligations under the terms of the promissory note, mortgage, or other loan documents.” The Trustee has stated in his objection that he is concerned that Debtor will not receive proper credit for the increase in interest rate that was noticed late. Creditor will agree to provide calculation of the time period in question to the Trustee for review and will enter an order providing Debtor for credit for the increased interest rate during this period and this will not cause a delinquency in Debtor’s account.

The Trustee’s second objection is due to the increase in the Debtor’s escrow account and has requested an accounting of the escrow account to be sure that the projected escrow shortage included in the proof of claim has been correctly credited to the Debtor’s account. Creditor is in the process of preparing this information and will provide it to the Trustee for review.

As of this time, Creditor believes that its payment change notices are accurate and should be allowed as filed.

WHEREFORE, PREMISIS CONSIDERED, Creditor requests that the Court will deny the Trustee’s Objection, allow its payment change notice as filed, and for such other relief to which Creditor may be entitled.

Submitted this the 2<sup>nd</sup> day of October, 2023.

/s/Karen A. Maxcy

Karen A. Maxcy

MS Bar No. 8869

Attorney for Creditor

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CERTIFICATE OF SERVICE

I, Karen A. Maxcy, of MCCALLA RAYMER LEIBERT PIERCE, LLC, 1544 Old Alabama Road, Roswell, Georgia 30076-2102, certify:

That I am, and at all times hereinafter mentioned, was more than 18 years of age;

That on the date below, I served a copy of the within Creditor's Response to Trustee's Objection to Payment Change Notices, which filed in this bankruptcy matter on the following parties at the addresses shown, by regular United States Mail, with proper postage affixed, unless another manner of service is expressly indicated:

Chiquilla Lucas  
611 French Rd  
Byhalia, MS 38611

Robert Hudson Lomenick, Jr. (served via ECF Notification)  
P.O. Box 417  
Holly Springs, MS 38635

Locke D. Barkley Trustee (served via ECF Notification)  
6360 I55 North  
Suite 140  
Jackson, MS 39211

United States Trustee (served via ECF Notification)  
501 East Court Street  
Suite 6-430  
Jackson, MS 39201

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on the 2<sup>nd</sup> day of October, 2023.

By: /s/Karen A. Maxcy  
Karen A. Maxcy